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**FEB 13 2007**

**Practitioner's Docket No. U 015759-8**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Ekaterina Vladimirovna BARSOVA, et al.  
 Application No.: 10/533,781 Group No.:  
 Filed: October 19, 2005 Examiner:  
 For: FLUORESCENT PROTEINS FROM COPEPODA SPECIES AND METHODS FOR USING  
 SAME

**Commissioner for Patents**  
**P. O. Box 1450**  
**Alexandria, VA 22313-1450**

**STATUS INQUIRY**

**WARNING:** Submission of a status letter after a Notice of Allowance may subject an application to a reduction in patent term adjustment under 37 C.F.R. § 1.1704(c)(10). See Notice of May 29, 2001, 1247 OG 111-112, June 26, 2001.

1. More than 3 months have passed since

- NEW APPLICATIONS -- Decision of Petition of 3 November 2006 (copy attached)  
STILL NOT received and PAIR still shows application Abandoned.
- AMENDED APPLICATIONS  
the filing of a response on \_\_\_\_\_  
No further communication has been received from the Patent and Trademark Office.
- APPEALED APPLICATION

The Appeal Brief was filed on \_\_\_\_\_

**CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\***  
*(When using Express Mail, the Express Mail label number is mandatory:  
 Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

- deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents P. O. Box 1450, Alexandria, VA 22313-1450.

**37 C.F.R. 1.8(e)**

- with sufficient postage as first class mail.

**37 C.F.R. 1.10\***

- as "Express Mail Post Office to Address"  
Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**

- transmitted by facsimile to the Patent and Trademark Office, to (571)-273-8300

Date: February 13, 2007

Signature

William R. Evans

*(type or print name of person certifying)*

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Status Inquiry—page 1 of 3) 9-3

(check and complete applicable items below)

- An Examiner's Answer was mailed on \_\_\_\_\_
- A Reply to the Examiner's Answer was submitted on \_\_\_\_\_
- ALLOWED APPLICATIONS  
the mailing of FORM POL-327 and/or Examiner's Amendment on \_\_\_\_\_

2. Kindly advise the undersigned of the present status of this application.

NOTE: M.P.E.P. § 203.08 Status Inquiries, 8<sup>th</sup> Edition, cautions as to the submission of status inquiries as follows:

*NEW APPLICATION*

*Current examining procedures now provide for the routine mailing from the Technology Centers (TCs) of Form PTOL-37 in every case of allowance of an application. Thus, the mailing of a form PTOL-37 in addition to a formal Notice of Allowance (PTOL-85) in all allowed applications would seem to obviate the need for status inquiries even as a precautionary measure where the applicant may believe his or her new application may have been passed to Issue on the first examination. However, as an exception, a status inquiry would be appropriate where a Notice of Allowance is not received within three months from receipt of form PTOL-37.*

*Current examining procedures also aim to minimize the spread in dates among the various examiner dockets of each art unit and TC with respect to actions on new applications. Accordingly, the dates of the "oldest new applications" appearing in the Official Gazette are fairly reliable guides as to the expected time frames of when the examiners reach the applications or action.*

*Therefore, it should be rarely necessary to query the status of a new application.*

*AMENDED APPLICATIONS*

*Amended applications are expected to be taken up by the examiner and an action completed within two months of the date the examiner receives the application. Accordingly, a status inquiry is not in order after reply by the attorney until 5 or 6 months have elapsed with no response from the Office. A postcard receipt for replies to the Office actions, adequately and specifically identifying the papers filed, will be considered prima facie proof of receipt of such papers. Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive. Proof of receipt of a timely reply to a final action will obviate the need for a petition to revive only if the reply was in compliance with 37 C.F.R. 1.113.*

Reg. No.:



SIGNATURE OF PRACTITIONER

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(type or print name of practitioner)

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26 West 61<sup>st</sup> Street  
New York, N. Y. 10023

(Status Inquiry—page 2 of 3) 9-3

**STATUS INQUIRY REPLY**

APPLICATION SERIAL NO. \_\_\_\_\_ IS CURRENTLY

- ASSIGNED TO GROUP \_\_\_\_\_ AND AWAITS:  
 ACTION BY THE EXAMINER.  
 APPLICANT'S RESPONSE TO THE OFFICE ACTION MAILED  
\_\_\_\_\_

APPEAL NO. \_\_\_\_\_

- IS AWAITING ACTION BY THE BOARD OF PATENT APPEALS AND INTERFERENCES  
 DATE OF HEARING EXPECTED \_\_\_\_\_  
 DECISION EXPECTED \_\_\_\_\_

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**07 NOV 2006**

Clifford J. Mass  
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New York, NY 10023

In re Application of  
BARSOVA, et al.  
U.S. Application No.: 10/533,781  
PCT No.: PCT/RU03/00525  
Int. Filing Date: 26 November 2003  
Priority Date: 26 December 2002  
Attorney Docket No.: U 015759-8  
For: FLUORESCENT PROTEINS FROM COPEPODA :  
SPECIES AND METHODS FOR USING SAME :

**DECISION ON PETITION  
UNDER 37 CFR 1.181**

This decision is in response to applicant's "Request to Withdraw Holding of Abandonment" filed on 01 August 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

**BACKGROUND**

On 26 November 2003, applicant filed international application PCT/RU03/00525, which claimed priority of an earlier application filed 26 December 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 26 June 2005.

On 04 May 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 19 August 2005, applicant was mailed a "NOTIFICATION OF MISSING

Application No.: 10/533,781

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On 01 August 2006, applicant filed the present petition under 37 CFR 1.181.

### DISCUSSION

A review of the application file finds applicant's original 19 October 2005 submission contained therein. As such, there is no need to consider applicant's petition as to accepting the presently filed copies of the originally filed papers. A review of the 19 October 2005 submission finds that it was timely filed and satisfied all of the concerns raised in the Form PCT/DO/EO/905 mailed 19 August 2005. Therefore, it is proper to grant applicant's petition to withdraw the holding of abandonment for this application.

### CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 24 July 2006 is hereby **VACATED**.

A review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 26 November 2003 under 35 U.S.C. 363 and will be given a date of **19 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.



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